

December 19, 2005

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Washington, DC 20554

**Re:** "Phantom Traffic"  
CC Docket No. 01-92

Dear Ms. Dortch:

PAETEC Communications, Inc. ("PAETEC") submits this letter concerning proposed solutions offered recently to the Commission regarding "phantom traffic." PAETEC is an integrated communications solutions provider which offers local, long distance, and Internet access service on an advanced technology basis to business customers nationwide. PAETEC is one of the fastest growing technology companies in the United States.

Recent proposals by a number of parties in this docket concerning phantom traffic request that the Commission adopt rules requiring that originating carriers clearly and accurately identify in call signaling information the calling party or the billed party and the first point of switching of the call.<sup>1</sup> The proposed rules envision, with some variation, that originating carriers will create and transmit accurate call information, cooperate with other carriers to obtain accurate and complete call records, and follow the Local Exchange Routing Guide ("LERG") in routing calls. The Commission would also establish new enforcement mechanisms for rules governing phantom traffic under these proposals. Some proposals recognize that rules should not apply to traffic without correct signaling information because of limitations of the network technology in use.<sup>2</sup> While PAETEC supports wholeheartedly Commission and industry efforts to properly identify call jurisdiction for the various reasons such information is relevant in today's interconnection marketplace, PAETEC would like to take the opportunity here to highlight two

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<sup>1</sup> Letter from Midsize Carrier Coalition to Marlene H. Dortch, CC Docket No. 01-92, December 5, 2005; Letter from Donna Epps, Verizon, to Marlene H. Dortch, CC Docket No. 01-92, November 10, 2005; Letter from Jeffrey S. Lanning, USTA, to Marlene H. Dortch, CC Docket No. 01-92, November 10, 2005

<sup>2</sup> Letter from Jeffrey S. Lanning, USTA, to Marlene H. Dortch, CC Docket No. 01-92, November 10, 2005.

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distinct issues that the Commission should consider before it imposes jurisdictional rules or enforcement penalties to address “phantom traffic.”

First, PAETEC urges that the Commission proceed with caution in order not to unfairly penalize a carrier or provider at the first point of switching if required signaling information is not presented by the serving carrier/provider end-user or wholesale customer. Secondly, PAETEC requests that the Commission acknowledge and support that interconnected carriers, to a large extent, have established contractual arrangements to manage this problem and that those contractual arrangements should be preserved where they exist.

Any rules addressing phantom traffic must explicitly recognize that there are a number of situations where the originating carrier does not receive call signaling information from customers. For example, in situations where the customer is served by non-signaling system 7 (“SS7”) dedicated private branch exchange (“PBX”) trunks the customer’s equipment is usually older equipment that will not ordinarily pass calling party number (“CPN”) to the originating carrier/provider. In this situation, the originating carrier or provider will not receive any SS7 information from the customer including CPN and may, or may not, depending on equipment and signaling path, receive jurisdiction information parameter (“JIP”), or any charge number identifier such as automatic number identification (“ANI”). Thus, the technical limitations of the customer’s service will preclude compliance by the originating carrier or provider with the proposed rules. This approach is consistent with the Commission’s rules which place an obligation to transmit CPN only on common carriers “using Signaling System 7 and offering or subscribing to any service based on SS7 functionality.”<sup>3</sup>

Further, it has been PAETEC’s experience that the large transiting incumbent local exchange carriers to whom PAETEC sends SS7 traffic destined for third party carriage or termination, may not themselves preserve the signaling information, specifically ANI, on calls that remain within a local access and transport area (“LATA”). When using SS7 signaling, PAETEC delivers this transit traffic to the incumbent via its local/intraLATA toll interconnection trunks. PAETEC cannot explain the reasons that ANI is not consistently carried to the terminating provider via the intraLATA interconnect network although PAETEC populates and/or maintains ANI in its SS7 call streams.

While PAETEC is amenable to using ANI as the jurisdictional referee, any prospective industry solution using ANI as the agreed upon identifier of jurisdiction must take second or third point of switching problems into account and not indiscriminately penalize the originator who is playing by the rules.

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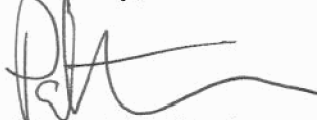
<sup>3</sup> 47 C.F.R. Section 64.1601.

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Accordingly, any rules governing phantom traffic should not apply to situations where the customer, for whatever reason, does not provide this signaling information to the originating carrier or provider. Secondly, those rules should have enforcement provisions that explicitly place the obligations not just on the carrier/provider at the first point of switching but those operating all along the link to the eventual point of termination.

Finally, any rules governing "phantom traffic" should also provide that they apply to the terminating carrier only in default of an agreement by the interconnecting carriers concerning how to handle "phantom traffic." Agreements between carriers can be preferable to rules for a number of reasons. Rules are frequently crafted for general application. They do not necessarily address unique provisioning arrangements. The rules proposed at this point in this proceeding are essentially undefined on key points such as who would be considered a telecom carrier or provider subject to the rules.<sup>4</sup> Establishing rules only as default rules would avoid time-consuming and expensive waiver requests as well as unnecessary enforcement proceedings. Carrier agreements, on the other hand, can be individually tailored to the circumstances and provisioning arrangements of the carriers exchanging traffic. Moreover, carriers currently enter into agreements that address, for example, how to jurisdictionalize traffic when traditional call identifying parameters are missing in the call signaling information. The Commission should not adopt rules that disrupt current carrier practices. Accordingly, any rules addressing phantom traffic should explicitly provide that they only apply to terminating carriers in default of voluntary agreements addressing handling of phantom traffic.

Sincerely,

A handwritten signature in dark ink, appearing to be a stylized combination of the initials 'RM' and 'PD', followed by a long horizontal flourish.

Richard M. Rindler  
Patrick J. Donovan

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<sup>4</sup> Letter from Midsize Carrier Coalition to Marlene H. Dortch, CC Docket No. 01-92, December 5, 2005.